

IN THE UNITED STATES DISTRICT COURT
PORTLAND OREGON DIVISION

Steven L. Stanley,

Plaintiff,

Vs.

Community Development
Partners (CDP) - Erik

Pain, Kyle Paine, Bradford
Long, 3416 Vio Oporto, Suite
301, Newport Beach, California

92663, 126 NE Alberta St.,
Suite 202, Portland, Oregon
97211 (971-533-7466/www.

communitypartners.com;
Kathryn Neech (owner-CDP
Agent); Guardian Management
LLC, Park Ave. West, 760 SW
9th Ave., suite 2200,
Portland, Oregon 97201, et al.

Defendants.

CASE NO: 3:21-EV-193-mo

JUDGE: Michael Mesman

CIVIL RIGHTS COMPLAINT

Sec 1983

(Jury Trial Demanded)

COMPLAINT

AS AMENDED

I.

PARTIES TO THE COMPLAINT:

PLAINTIFF - Steven W.

Stanley, prose

Milepost 5/The Studios

850 NE 81st Ave, #216

Portland, Oregon 97213

(503-957-4226)

DEFENDANTS:

#1

Community Development

Partners (CDP), Owners of

the property known as the

Milepost 5/The Studios

artist community located

at 850 NE 81st Ave, Portland,

Oregon 97213; Bradford Long -

Dir. of CDP Asset Management;

Erik and Kyle Pain (Brothers),

Founders of CDP and owners of

the above cited MP5 property;

Kathryn Neerh - "Owner/Agent"

CDP of MP5 property : (503) 426-3520

#2. Guardian Managent LLC
Park Ave West
460 SW 9th Ave., Suite 2200
(503) 802-3600
The Contracted Property
management Co. of MP5

II.

1. JURISDICTION:

This Court has subject matter jurisdiction pursuant to 28 U.S.C. Sec. 1343 (3), Sec. 1331, 1367 (a); 28 U.S.C. Sec. 1391 (b) (3) as amended by Sec. 311 by the Judicial Improvements Act, 1990, Pub. L. 101-650. Stat. 5089; 28 U.S.C. Sec. 1391-1407; and Article III of the U.S. Constitution. The claims and allegations being made herein arise under Federal Statutory law (Fair Housing Act, 42 U.S.C. Sec 3601 et. seq. [Chapter 45- Public Health], Current through Pub. L. 116-168; 42 U.S.C. Chptr. 8- Low Income Housing and specifically FHR Sec. 3613 (a) (1) (A) (B) (2); Sec 1437^F; LIHTC and OHCS provisions; violation of rights and protections, privileges under Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq. (Title III), 42 U.S.C. Title 42, Chptr. 21 [Sub. Chptr. 1-11 generally]. In addition, Plaintiff claims violation of his Eighth Amendment, Due Process,

Equal Protections in the Fifth Amendment as incorporated in the Fourteenth Amendment to the United States Constitution.

VENUE:

2. Defendants are owners, agents, representatives, and or managers of the property known as MP5/the Studios Artist Community located at 850 NE 81st Ave., Portland, Or 97213. At all times referenced herein time period of February 1, 2020 through the present and COP's purchase of the said property in 2018 were the acting owners and managers of the property. Each defendant had active and direct control, responsibility of all operations, policy and decisions - making of the premises and having full notifications and knowledge of the facts, violations, complained claims being brought in the instant case. All parties to this action live and do business in Portland, State of Oregon within this Courts jurisdiction and venue.
3. Plaintiff states he anticipates bringing numerous state law claims as they arise out of a common nucleus of operative fact[s] and hereby puts on notice and reserves the right to enjoin such claims invoking the Courts pendant jurisdiction. Such state law claims include but not limited to violation of ORS Sec. 124.005 - 124.040 and OHC statutory standards.

4. Plaintiff took great pains and rigorous efforts to seek reasonable means of resolution including an offer for mediation to obtain relief for what are ongoing violations. Plaintiff has provided defendants legal counsel Notice of Intent highlighting issues and claims no less than two weeks prior to filing of this action. Plaintiff has little recourse at this point in time but to seek relief by bringing this cause of action before this Honorable Court.

5. Plaintiff has standing to bring this cause of action in that 1-) he is disabled receiving monthly Soc. Sec. (SSI) benefit and SNAP food assistance (See EXHIBIT #1 attached hereto); 2-) Plaintiff has suffered an injury of fact, tangible and intangible; That it is directly traceable to the challenged actions of defendants; 3.) That it is likely to be redressed by a favorable decision.

6. For his cause of action against defendants Plaintiff states:

a) By this reference, Plaintiff incorporates each

and every allegation and averment contained in paragraphs 1-4 as if thoroughly written and set forth herein.

- b.) Defendants are being sued in their individual and (occupational employment) capacity[is] as the acting owners, operators, agents and managing representatives of/for Community Development Partners and or Guardian Management LLC of the property known as Milepost 5/The Studios located at 850 NE 81st Ave., Portland, Or. 97213 (503) ~~333-3331~~. All named defendants have total operational, ownership, managerial control and authority in implementing policies, practices, rules in regard to said property.
- c.) Plaintiff seeks monetary punitive and compensatory damages for sustained injury, physical, emotional, mental, tangible and intangible.
- d.) Plaintiff seeks Declaratory Judgement that the defendants violated Plaintiffs Constitutional and Civil Rights and such violations as the Court and or jury may so find.
- e.) Plaintiff requests a TRO prohibiting any effort by defendants to evict Plaintiff from his rental domicile with or without cause pending final disposition of this case and an order that defendants immediately relocate to

another area room location of the MPS complex the occupants/tenants in apartment #316 directly above plaintiff's domicile as they have and continue to pose a physical threat and danger to Plaintiff in vicious acts of retaliation for Plaintiff's grievances against them and are a major contributor to Plaintiff's cause of action and physical, emotional and mental injury.

III.

A) STATEMENT OF FACTS:

7. Defendant Community Development Partners (CDP) is a California based company with acquisitions in Oregon, California, Arizona, Nevada, an industry engaged in commerce. CDP allegedly received B-Corporation certification in August 2019. Plaintiff believes CDP also received tax-credit low-income certification pursuant to LIHTC program governed by Sec. 42 of Internal Revenue Code, Fair Housing Act [42 U.S.C. sec. 3601 et seq., Sec. 1437f] (Chptrs 8, 45 - Public Health). CDP was founded in 2011 and purchased the former Presbyterian Seniors Home now known as Milepost 5/The Studios sometime in mid-late 2018 and contracted Viridian management to initially manage the MPS complex which is a mixed-use

Commercial/Residential Facility. As the result of unconstitutional conditions and varied violations CDP was always able to evade accountability for (See EXHIBIT # 2 [A and B] attached hereto). On February 1, 2020 Guardian Management took over contracted managerial control of MP5 under CDP oversight. Guardian has tentacles reaching nationwide in its business operations engaged in industry commerce and interstate communications

8. Plaintiff is a 68 yr., disabled, and basically pseud-retired molecular biologist and actively teaches and practices Phytochemistry specializing in strategies and treatment of cancers and viruses for 36 plus years (See EXHIBIT # 3 attached herewith). In March 2019 Plaintiff responded to a memo sent to housing assistance agency's advertising rentals (See Exhibit 2-A at pg. 5). After some objections and contested by Plaintiff's program based rent-assistance case manager, Plaintiff signed lease agreement before case mgr's arrival to act in performance and duty pursuant to FHA (42 U.S.C., Sec. 1437f, Subsections (10)(A)(B)(C)(ii)(F). At this point and again Transition Projects became a tenant in common as they have been providing program based rent-assistance for 9 months

of Plaintiff's total 22 months occupancy at MP5. Plaintiff after the disruptive controversy over his signing of lease agreement without prior review by the program case mgr., Plaintiff took possession and occupancy of Rm. 216 (a SRO- single room occupancy on April 12, 2019 (See Lease Agreement marked EXHIBIT #4 attached hereto). Plaintiff is a disabled individual under Americans With Disabilities Act [42 U.S.C., Sec. 12101 et seq.; (Pub. L. 101-336, 7/26/1990, 104 Stat. 327) 12110 et seq. 1/1/2009, last amended Dec. 19, 2014]. Plaintiff suffers from a plethora of medical infirmaries and is struggling with further complications and recovery from coronavirus infection detected April 4, 2020 (See EXHIBIT #5 attached hereto). MP5 The Studios is a mixed-use Commercial/Resident Facility as defined in Title III of the RDA as with holding tax-credit low income housing falling under regulatory Structures of FHA, LIHTC, OHC and guidelines. Approximately a third of Plaintiff's residency has been funded by Federal, State, County distributed funds by program based rent-assistance (See EXHIBIT #6). In the late night hours (11:30 pm of December 28, 2020) while sitting at his second floor window Plaintiff had a full-unopened beer can hurled and smashing

into his window by the MP5 tenant who Plaintiff can only identify as occupant in Room #328 as the defendants refuse to provide this individuals name to Plaintiff for purpose of obtaining a TRO against this person thus styming accomplishing this process. Plaintiff looked out and identified Rm. 328 who stood below ranting and raving, spouting obscenities at Plaintiff at aprox. 1108 on December 29, 2020. (Plaintiff has details recorded in his cell phone memory of the time frame and PPB's records of his 911 call). Rm. 328 returned again aprox. 30 minutes later ranting and raving beneath Plaintiff's window. Plaintiff at this point ran out to confront this person and staying back at 10 feet or so. Rm. 328 then brandished a gun and chambered a round saying "meet Mr. Glock" and stated he will "shoot me [Plaintiff] dead". Plaintiff more than hastily fled in what a witness (Ms. Brandy Trot) stated was Plaintiff with hands raised backing up and into the building. The police arrived and an "incident report" was filed and Plaintiff is awaiting to receive the report costing \$30.00 hoping it cites the assailants name so he can proceed with obtaining a TRO (See EXHIBIT #7 attached hereto). Defendants response goes to Plaintiff's Due Process claim.

IV.

CAUSE OF ACTION:

8) Claim 1 - Violations of Americans With Disabilities Act:

9. Plaintiff states, enumerates several count elements.

First, Defendants acts/inaction, omissions, failure, and practices, denied Plaintiff reasonable accommodation to his serious medical need, specifically to a smoke free living environment. Defendants have not and do not make the slightest reasonable effort to enforce their own lease agreement No Smoking policy (not even in regard to their own employee maintenance personnel). Defendants have no designated area or wing of this huge complex as 'smoke free' for those non smokers and requesting such as Plaintiff.

Defendants have taken a laizze faire look the other way to this issue. Furthermore, as a Commercial Facility which also has several independant outside businesses located in the facility such as Delilahs Catering, H&R Solutions as with Plaintiff's work place office are in flagrant violations of the Oregon Clean Air Act requirements and incorporates this State Law violation claim herein while also constituting breach of contract (landlord/Tenant) contractual relationship. Defendants acts, failures and practices have resulted in injury, i.e.,

exacerbation of his "asthma", "environmental allergies" and sinusitis (See Exhibit 5). Basically this can also represent an equal protection claim - discrimination by way of being a member of a growing class of non smokers. The harmful exposure of 2ndhand smoke is well documented and antithetical to current social standards of health, safety, security and basic human decency. Second, defendants acts, omissions, failures, and practices denied Plaintiff the right and reasonable accomodation to a healthy, safe and secure living environment and instead has knowingly and documented, created a unhealthy, dangerous and hostile environment fraught with theft, thuggery, fights and unimangible disturbances throughout late night to twilight morning hours causing sleepless nights, fear, anxiety and emotional distress and the right to peaceful enjoyments of his residence. MP5 is a wild lawless frontier at present with no enforcement of anything, least of all compliance with State, County mandated restrictions constituting a deadly threat (See EXHIBIT #8 attached herewith). Plaintiff had to file a formal complaint regarding Covid 19 restriction non-compliance and pg.3 of EXHIBIT # 7 was defendants response.

(C) Claim 2- Violation[s] of Fair Housing Act:

10. Plaintiff has standing to bring this claim pursuant to FHA - 42 U.S.C., Sec. 3610(a), 3613(a)(1)(A)(B)(2) and is within the 2 year statutory time period and states it as a discrimination claim which the duty not to discriminate in housing conditions encompasses the duty to not permit known harassment on protected grounds. To this end Plaintiff not only suffered mere harassment but threats of physical harm, telephone death threats and a virtual reign of terror launched against him by residents forcing Plaintiff to vacate his domicile after a deranged tenant hurled a full unopened beer can into his window and returned an hour later chambering a loaded gun threatening to "shoot [Plaintiff] dead" at 12:36 am on Tues., December 29. Plaintiff alleges the hostility and 'harassment' was in retaliation for his grievances against specific individuals (Rms. 316, 328) implicating First Amendment claim issues. Plaintiff further alleges that defendants Guardian management employee[s] maintenance personnel, specific acts enabled, aided and or abetted, and factually encouraged such retribution through inciting comments to residents. Plaintiff suffered factual injury as a result.

Plaintiff further alleges Defendants as corporations failed to provide nondiscriminatory housing and retaliated or otherwise discriminated against him in several contextual elements. 1.) by dismissing Plaintiff's many complaints, ignoring them, and not responding in effectively acknowledging them or acting upon them to abate or otherwise discourage further harassment, threats of physical harm; and 2.) failure to provide the fully panoply of constitutional due process to the extent of not so much as providing an interview to discuss, detail and give a narrative of the events (brandishing of a firearm by Rm. 328 on the early morning hours of December 29, 2020) and that Plaintiff's sexual orientation (as an openly and known gay person) as the assailant in Rm. 328 was ranting "fucking faggot", "queer" when hurling the unopened beer can into Plaintiff's window thus violating privileges, immunities and rights based on a protected characteristic. Therefor violating 42 U.S.C., Sections 3601, 3603(b), 3604, 3605, 3606 which are co-extensive with Sec. 3617, also has an analogue with ADA provisions. See also Title VII of the Civil Rights Act (1964), Sec. 703; Civil Rights Act of 1968, Sec. 804; and Restatement (Second of Prop.: Landlord & Tenant,

Sec. 6.1 cmt. d, ill us. 10-11; Sec. 4.3; 24 CFR. Sec. 100.4 (a)(1)(iii). It is clear that FHR not only does it create a liability when a landlord intentionally discriminates against a tenant based on a protected characteristic; it also creates a liability against a landlord that has actual notice of a tenant-on tenant harassment based on a protected status, yet chooses not to take reasonable steps within its control to stop that harassment, and notwithstanding interfered with peaceful use and enjoyment of Plaintiff's residency and of community use of MP's studios community kitchens, laundry facility, community room (Art Haus) events and usage due to the prevailing and ongoing threat to Plaintiff's health, security and safety. A "hostile, dangerous" environment in that Plaintiff endured unwelcome harassment based on a protected class and characteristic; the harassment was extreme-severe and pervasive enough to interfere with terms, conditions, privileges of his residency or in the provision of services or facilities; and that there is a well established legal basis for imputing liability to defendants. Plaintiff's narrative, facts and complaints represent more than a simple quarrel between neighbors or a mere isolated act of harassment, rather, a prolonged assault for months.

D) Claim 3- Violations of Plaintiffs Due Process Rights:

11. Plaintiffs claim is in regard to established grievance procedures and alleges blunt disregard for and violation of that right which requires fundamental procedural fairness for those facing deprivation of life, liberty or property. The full panoply of Constitutionally mandated due process procedures and apply to public housing, Sec. 8 vouchers, program based rent-assistance, and tax-credit low income housing. To this end defendants acts, omissions, failures, policy and factual practices did not and cannot meet Constitutional muster.

E) Claim 4- Violation of Plaintiffs Equal Protection Rights:

12. Plaintiff alleges defendants acts, omissions, failures, practices and or policy violated Plaintiffs equal protection rights in the framework of habitability which resulted is a grossly disparate and injurious impact differently than others or those similarly situated and was a random and arbitrary and intentional with an overtly discriminatory harmful affect. This claim evolves around defendants sudden random practice in the lease application process and is a deprivation of substantive due process. Plaintiff suffered disparate treatment resulting in harm due to defendants acts and

practices were the proximate cause of injury suffered by Plaintiff. Even a equal protection claim that a party was disadvantaged is cognizable while potentially not subjected to objective reasonableness standard although perhaps to a lesser degree of scrutiny. Defendants rental application vetting process was suddenly altered giving no notice of such resulting in inequitable disadvantage to Plaintiff and those similarly situated and state remedies are irrelevant to whether a 1983 action to address a substantive constitutional deprivation[s]. Plaintiff also incorporates into this equal protection claim alleging a specific provision of lease agreement as being unconstitutional (see Exhibit 4 headlined as "milepost 5 Studios Rental Agreement 'Addendum'" at pg. 4, para 28). This "Addendum" is not a part of ANY of the states authorized MultiFamily NW Oregon rental agreement and its imposition into the contract by CDP is/was unconstitutional and questions if its insertion was ever viewed by HUD or local Fair Housing Counsel, obviously an invented scheme of sorts by CDP going renegade.

F) claim 5 - Plaintiff alleges defendants breached the
Landlord/Tenant contractual relationship:

13. Plaintiff asserts his right to contract to make and enforce contracts when breached, including the non-enforcement of conditions and terms of that contract, and the right to enjoyment of all benefits, privileges, terms and conditions of contractual relationship. Basic to all leases is the implied covenant of quiet and peaceful enjoyment of residency. The U.S. Housing Act, 1937, Sec. 3, as amended, 42 U.S.C. Sec. 1437a-f (1982 ed. and Supp. II) gave public housing tenants a right to a lease from unreasonable terms and conditions, and infringement of this right is actionable under 1983. See also "Right to Contract" phrasing of Civil Rights Act, 1991, Sec. 101, 108, 110. Both defendants are also not in compliance with ORS, Sec 90.320, and Sec 90.360 and incorporates such claim herein claim 5, para 13.

G) Claim 6 - Defendants Violated Plaintiff's Eighth Amendment Right against the infliction of needless, unnecessary, wanton pain and suffering:

14. Defendants acts, omission[s], failure, practices and apparent policy[s] fostered, engendered a unhealthy,

hostile, dangerous, lawless, rampant terroristic environment manifested by fear and mistrust which was the proximate cause of needless pain and suffering resulting in physical, emotional, tangible and intangible injury. At this point and time it is defendants who possess the major portion of collaborative evidence of these claims by way of Plaintiffs' written and detailed written complaints and grievances and security surveillance camera footage which they possess and control. The violations will appear obvious and there need not be a materially similar case for the right to be clearly established.

15. Plaintiff brings this cause of action under the 'class of one' theory as there are other party's with a vested interest in the outcome such as the Home Owners Association in the adjoining condominiums known as Milepost 5 The Lofts located at 900 NE 81st Av., Portland, Or. 97213 headed by its chairperson Brandy Trot. It is also in Plaintiffs' zone of interest as an aggrieved party with an interest in the protection by the statutes and Constitutional rights being violated. Transition Projects also has a vested interest in outcome as well.

H) Claim 7 - Plaintiff alleges Defendant Community Development Partners have presented false, misrepresentation of facts in their submission of documents to obtain the Community Development Grants, Federal tax-credit certification and is in conflict with facts, reality. In short, Plaintiff Claims CDP has and is committed fraud in their filings with HUD, IRS to obtain and retain this tax benefit status and LIHTC provisions:

16. Defendant CDP is not nor ever has been in compliance or lived up to obligations in obtaining the LIHTC and above Community grants. And such grants are conditioned upon certification that grant[er] will be conducted and administered with provisions of such. Plaintiff's claim pays [ing] specific reference to 42 U.S.C. Sec. 5304 et seq., i.e., "Statement of Activities" (sec. 5306(b)(1)(2)(B) for example as with Sec. 811. Defendants have never acted in compliance nor carried out or fulfilled obligations encoded in these statutes. Rather, Defendants have not so quietly converted property in question into an unauthorized, unlicensed homeless shelter minus the social services support structure and a nomadic tourist hostel also operating unlicensed. Plaintiff seeks a Court judicial review and investigation (state and Federal) into these allegations.

V.

RELIEF:

17. Plaintiff is suing all named defendants in their individual, corporate official, employer, employee capacity[s] in their role as property owners and property management, as agents, operatives, and the legal decision-making and policy making authoritative representatives of Community Development Partners and Guardian Management LLC who acting in mutual, direct, collaborative symbiotic relationship in all decisions related to the claims, violations as set forth in paragraphs 7-15.

(a) Plaintiff seeks monetary punitive and compensatory damages in equal sum of \$ 500,000, as to defendant Community Development Partners and equal sum of \$ 500,000. as to Guardian Management LLC for actual physical injury, emotional (tangible and intangible) and mental distress and lost usage of his rental (#216) at Milepost 5/ The Studios from December 29, 2020 through February 28, 2021 as the proximate cause of Defendants acts, failures, omissions, and practices that became standard policy resulting in financial loss of \$ 2,179.00. to Plaintiff.

b) A Declaratory Judgment issued stating Defendants are in violation of Plaintiff's Eighth Amendment rights and faces irreparable harm if conditions of which he describes are continuous and to act immediately, take steps to eliminate, remedy those specific threats to his health, safety, security which is to include enforcement of all Covid 19 mandated statewide restrictions consistent with all commercial, business and workplace facilities for protection of Plaintiff and all others occupying as residents and businesses the complex known as Milepost 5/The Studios and within whatever timeframe the Court may so specify.

c) A Restraining Order (TRO) to 1.) order a halt or cease and desist all further rental applications, process/procedures, intake and admission of any further "new" residents pending investigation of Plaintiff's allegations/claim[s] in the foregoing paragraphs 9-16, pgs 9-16; 2.) prohibiting any effort at eviction of Plaintiff for cause or no cause through the pendency of case proceedings and final disposition of all case related matters.

- d) Plaintiff requests the Court to invoke its pendant-supplemental jurisdiction pursuant to Article III, 28 U.S. Code, Sec. 1367 to enjoin the following state law claims defendants were/are in violation:
1. Abuse of the Elderly and with Disabilities; ORS 124.050-124.140; 410.610 et. seq.; 640.35 (1)(b)(d), (1)(B)(e), (A)(D), Plaintiff qualifies as a victim pursuant to 124.100 (1)(B)(e)(A)(D).
 2. Oregon Clean Act (ICRA), Or. AR 333-015-3000 (as adopted from 42 U.S.C., Sec. 7401; and Governor Browns Temporary Emergency Order that was effective April 30, 2020 through October 26, 2020.
 3. Oregon Rent Control Law (Senate Bill 608 signed into law February 2019, (non-compliance)
 4. Landlord/Tenant Law (H.B. 4204) Chptrs. 90, 91 ORS, Sec. 90 (non-compliance)
 5. Oregon Housing and Community Services LHC(OHCS) provisions. (non-compliance)
 6. Violations of LHHC provisions non-compliance; 26 U.S. Code, Sec 42
- e) All reasonable attorney fees of hours and costs associated with bringing and sustaining this cause of action.

- f) Another relief as this Court deems to be equitable and appropriate to protect and preserve Plaintiff's Constitutional, Civil Rights, and or required and or necessary in the best interest of all parties.
- g) Plaintiff, Steven H. Stanley hereby state under penalty of law that the facts, statements and circumstances as set forth herein are true and correct to the best of his belief, information at present time available, knowledge and recollection. A jury trial is demanded

Respectfully Submitted;

Steven H. Stanley

Steven H. Stanley, pro se
Plaintiff

850 NE 81st Ave., # 216

Portland, Or. 97213

(503) 957-4226

SWORN and SUBSCRIBED to before me this 23rd day
of February, 2021.

[Signature]

Acknowledgment

State of OREGON

County of Multnomah

This Instrument was acknowledged before me

on: February 23rd, 2021

by: Steven Stanley

[Signature]
Notary Public

CERTIFICATE OF SERVICE

I, Steven L. Stanley, hereby certify a true and correct copy of the foregoing Amended Complaint (Sec. 1993) was hand delivered (placed into 'drop box') to the U.S. District Court, Mark O. Hatfield Courthouse, 1000 S.W. Third Ave., Portland, Or., this 23rd day of February, 2021 with copies mailed, postage prepaid, to the following:

cc: Atty. Christopher J. Dotzmann

200 SW Market St., Suite 1800

Portland, Or. 97201

and

Green Spoon Marder

Atty. William Edgar

PacWest Center

1211 SW 5th Ave., Suite 2850

Portland, Or. 97204

Steven L. Stanley

MP5/Studios, 850 NE 81st Ave.,

#216, Portland, Or. 97213

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